

Message Text

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ACTION L-03

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TO SECSTATE WASHDC 9717

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E. O. 11652: N/A
TAGS: CPRS, US, MX
SUBJECT: EXTRADITION TREATY NEGOTIATIONS-MEXICO

REF: MEXICO 6445

FOR L AND OPR/LS

DEPARTMENT PASS JUSTICE

1. FOLLOWING ARE PROVISIONS OF DRAFT EXTRADITION
TREATY AGREED TO AS OF MEETING APRIL 21. TENTATIVE
AGREEMENT COVERS ARTICLE 10 PARA 3 TO FINAL CLAUSE.

2. ENGLISH TEXT BEING SUBMITTED IN THIS TELEGRAM
ONLY.

ARTICLE 10:

BEGIN QUOTE -(3) IN ADDITION, WHEN THE REQUEST FOR
EXTRADITION RELATES TO A PERSON WHO HAS NOT YET BEEN
CONVICTED, IT SHALL BE ACCOMPANIED BY:

(A) A CERTIFIED COPY OF THE WARRANT OF ARREST ISSUED
BY A JUDGE OR OTHER JUDICIAL OFFICER OF THE REQUESTING
PARTY;

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(B) EVIDENCE WHICH, IN ACCORDANCE WITH THE LAWS OF
THE REQUESTED PARTY, WOULD JUSTIFY THE APPREHENSION
AND COMMITMENT FOR TRIAL OF THE PERSON SOUGHT IF THE
OFFENSE HAD BEEN THERE COMMITTED.

(4) WHEN THE REQUEST FOR EXTRADITION RELATES TO A

CONVICTED PERSON, IT SHALL BE ACCOMPANIED BY A CERTIFIED COPY OF THE JUDGMENT OF CONVICTION IMPOSED BY A COURT OF THE REQUESTING PARTY.

IF THE PERSON WAS FOUND GUILTY BUT NOT SENTENCED, THE EXTRADITION REQUEST SHALL BE ACCOMPANIED BY A CERTIFICATION TO THAT EFFECT AND A CERTIFIED COPY OF THE WARRANT OF ARREST.

IF SUCH PERSON HAS ALREADY BEEN SENTENCED, THE REQUEST FOR EXTRADITION SHALL BE ACCOMPANIED BY A CERTIFICATION OF THE SENTENCE IMPOSED AND A STATEMENT INDICATING WHICH PART OF THE SENTENCE HAS NOT BEEN CARRIED OUT.

(5) ALL THE DOCUMENTS THAT MUST BE PRESENTED BY THE REQUESTING PARTY IN ACCORDANCE WITH THE PROVISIONS OF THIS TREATY SHALL BE ACCOMPANIED BY A TRANSLATION IN THE LANGUAGE OF THE REQUESTED PARTY.

(6) THE DOCUMENTS WHICH, ACCORDING TO THIS ARTICLE, SHALL ACCOMPANY THE REQUEST FOR EXTRADITION, SHALL BE RECEIVED IN EVIDENCE WHEN:

(A) IN THE CASE OF A REQUEST EMANATING FROM THE UNITED STATES, THEY ARE AUTHENTICATED BY THE OFFICIAL SEAL OF THE DEPARTMENT OF STATE AND LEGALIZED BY THE MANNER UNCLASSIFIED

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PRESCRIBED BY THE MEXICAN LAW.

(B) IN THE CASE OF A REQUEST EMANATING FROM THE UNITED MEXICAN STATES, THEY ARE LEGALIZED BY THE PRINCIPLE DIPLOMATIC OR CONSULAR OFFICER OF THE UNITED STATES IN MEXICO.

ARTICLE 11 - PROVISIONAL ARREST - (1) IN THE CASE OF URGENCY, EITHER CONTRACTING PARTY MAY REQUEST, THROUGH THE DIPLOMATIC CHANNEL, THE PROVISIONAL ARREST OF AN ACCUSED OR CONVICTED PERSON. THE APPLICATION SHALL CONTAIN A DESCRIPTION OF THE OFFENSE FOR WHICH THE EXTRADITION IS REQUESTED, A DESCRIPTION OF THE PERSON SOUGHT, AN UNDERTAKING TO FORMALIZE THE REQUEST FOR EXTRADITION, AND A DECLARATION OF THE EXISTANCE OF A WARRANT OF ARREST ISSUED BY A COMPETENT JUDICIAL AUTHORITY OR A JUDGMENT OF CONVICTION ISSUED AGAINST THE PERSON SOUGHT.

(2) ON RECEIPT OF SUCH A REQUEST, THE REQUESTED PARTY SHALL TAKE THE NECESSARY STEPS TO SECURE THE ARREST OF THE PERSON CLAIMED.

(3) PROVISIONAL ARREST SHALL BE TERMINATED IF, WITHIN A PERIOD OF 45 DAYS AFTER THE APPREHENSION OF THE PERSON CLAIMED, THE EXECUTIVE AUTHORITY OF THE REQUESTED PARTY HAS NOT RECEIVED THE FORMAL REQUEST FOR EXTRADITION AND THE DOCUMENTS MENTIONED IN ARTICLE 10. THIS PERIOD MAY BE EXTENDED, UPON THE REQUEST OF THE REQUESTING PARTY, FOR A MAXIMUM OF 15 ADDITIONAL DAYS.

(4) THE FACT THAT THE PROVISIONAL ARREST IS TERMINATED PURSUANT TO PARAGRAPH 3 SHALL NOT PREJUDICE THE EXTRADITION OF THE PERSON SOUGHT IF THE REQUEST FOR EXTRA-

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DITION AND THE NECESSARY DOCUMENTS MENTIONED IN ARTICLE 10 ARE DELIVERED AT A LATER DATE.

ARTICLE 12 - ADDITIONAL EVIDENCE - IF THE EXECUTIVE AUTHORITY OF THE REQUESTED PARTY CONSIDERS THAT THE EVIDENCE FURNISHED IN SUPPORT OF THE REQUEST FOR EXTRADITION IS NOT SUFFICIENT IN ORDER TO FULFILL THE REQUIREMENTS OF THIS TREATY, THAT PARTY SHALL REQUEST THE PRESENTATION OF THE NECESSARY ADDITIONAL EVIDENCE.

ARTICLE 13 - PROCEDURE - THE REQUEST FOR EXTRADITION SHALL BE PROCESSED IN ACCORDANCE WITH THE LEGISLATION OF THE REQUESTED PARTY. (A SECOND PARAGRAPH ON THE OBLIGATION TO PROVIDE LEGAL REPRESENTATION IS BEING REDRAFTED).

ARTICLE 14 - DECISION AND SURRENDER - (1) THE REQUESTED PARTY SHALL PROMPTLY COMMUNICATE TO THE REQUESTING PARTY ITS DECISION ON THE REQUEST FOR EXTRADITION.

(2) IN THE CASE OF COMPLETE OR PARTIAL REJECTION OF
A REQUEST FOR EXTRADITION, THE REQUESTED PARTY SHALL
GIVE THE REASONS ON WHICH IT WAS BASED.

(3) IF THE EXTRADITION IS GRANTED, THE SURRENDER
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OF THE PERSON SOUGHT SHALL TAKE PLACE WITHIN SUCH
TIME AS MAY BE PRESCRIBED BY THE LAWS OF THE REQUESTED
PARTY. THE COMPETENT AUTHORITIES OF THE CONTRACTING
PARTIES SHALL AGREE ON THE DATE AND PLACE OF THE
SURRENDER OF THE PERSON SOUGHT.

(4) IF THE COMPETENT AUTHORITY HAS ISSUED THE
WARRANT OR ORDER FOR THE EXTRADITION OF THE PERSON
SOUGHT AND HE IS NOT REMOVED FROM THE TERRITORY OF
THE REQUESTED PARTY WITHIN THE PRESCRIBED PERIOD, HE
SHALL BE SET AT LIBERTY AND THE REQUESTED PARTY MAY
SUBSEQUENTLY REFUSE TO EXTRADITE HIM FOR THE SAME
OFFENSE.

ARTICLE 15 - DELAYED SURRENDER - THE REQUESTED PARTY,
AFTER GRANTING THE EXTRADITION, MAY DEFER THE SURRENDER
OF THE PERSON SOUGHT WHEN THAT PERSON IS BEING
PROCEEDED AGAINST OR IS SERVING A SENTENCE IN THE
TERRITORY OF THE REQUESTED PARTY FOR A DIFFERENT
OFFENSE, UNTIL THE CONCLUSION OF THE PROCEEDING AND
THE FULL EXECUTION OF THE PUNISHMENT THAT HAS BEEN
IMPOSED.

ARTICLE 16 - REQUESTS FOR EXTRADITION MADE BY THIRD
STATES - THE REQUESTED PARTY, IN THE CASE OF RECEIVING
REQUESTS FROM THE OTHER CONTRACTING PARTY AND FROM
ONE OR MORE THIRD STATES FOR THE EXTRADITION OF THE
SAME PERSON, BE IT FOR THE SAME OFFENSE OR FOR
DIFFERENT OFFENSES, SHALL DECIDE TO WHICH REQUESTING
STATE IT SHALL GRANT THE EXTRADITION OF THAT PERSON.

ARTICLE 17 - RULE OF SPECIALITY - (1) A PERSON
EXTRADITED UNDER THE PRESENT TREATY SHALL NOT BE
DETAINED, TRIED OR PUNISHED IN THE TERRITORY OF
THE REQUESTING PARTY FOR AN OFFENSE OTHER THAN THAT
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FOR WHICH EXTRADITION HAS BEEN GRANTED NOR BE
EXTRADITED BY THAT PARTY TO A THIRD STATE UNLESS:

(A) HE HAS LEFT THE TERRITORY OF THE REQUESTING PARTY AFTER HIS EXTRADITION AND HAS VOLUNTARILY RETURNED TO IT;

(B) HE HAS NOT LEFT THE TERRITORY OF THE REQUESTING PARTY WITHIN 60 DAYS AFTER BEING FREE TO DO SO; OR

(C) THE REQUESTED PARTY HAS GIVEN ITS CONSENT TO HIS DETENTION, TRIAL, PUNISHMENT OR EXTRADITION TO A THIRD PARTY FOR AN OFFENSE OTHER THAN THAT FOR WHICH THE EXTRADITION WAS GRANTED.

THESE STIPULATIONS SHALL NOT APPLY TO OFFENSES COMMITTED AFTER THE EXTRADITION.

(2) IF, IN THE COURSE OF THE PROCEDURE, THE CLASSIFICATION OF THE OFFENSE IS CHANGED FOR WHICH THE PERSON REQUESTED WAS EXTRADITED, HE SHALL BE TRIED AND SENTENCED ON THE CONDITION THAT THE OFFENSE, IN ITS NEW LEGAL FORM:

(A) IS BASED ON THE SAME GROUP OF FACTS ESTABLISHED IN THE REQUEST FOR EXTRADITION AND IN THE DOCUMENTS PRESENTED IN ITS SUPPORT, AND

(B) IS PUNISHABLE WITH THE SAME MAXIMUM SENTENCE AS THE CRIME FOR WHICH HE WAS EXTRADITED OR WITH A LESSER SENTENCE.

ARTICLE 18 - WAIVER OF EXTRADITION - IF THE PERSON

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SOUGHT INFORMS THE COMPETENT AUTHORITIES OF THE REQUESTED PARTY THAT HE AGREES TO BE EXTRADITED, THAT

PARTY MAY GRANT HIS EXTRADITION WITHOUT FURTHER PROCEEDINGS, AND SHALL TAKE ALL MEASURES PERMITTED UNDER ITS LAWS TO EXPEDITE THE EXTRADITION. IN SUCH CASES ARTICLE 17 SHALL NOT BE APPLICABLE.

ARTICLE 19 - SURRENDER OF PROPERTY - (1) TO THE EXTENT PERMITTED UNDER THE LAW OF THE REQUESTED PARTY AND SUBJECT TO THE RIGHTS OF THIRD PARTIES, WHICH SHALL BE DULY RESPECTED, ALL ARTICLES, INSTRUMENTS, OBJECTS OF VALUE OR DOCUMENTS RELATING TO THE OFFENSE, WHETHER OR NOT USED FOR ITS EXECUTION, OR WHICH IN ANY OTHER MANNER MAY BE MATERIAL EVIDENCE FOR THE PROSECUTION, SHALL BE SURRENDERED UPON THE GRANTING OF THE EXTRADITION EVEN WHEN EXTRADITION CANNOT BE EFFECTED DUE TO THE DEATH, DISAPPEARANCE, OR ESCAPE OF THE ACCUSED.

(2) THE REQUESTED PARTY MAY CONDITION THE SURRENDER OF ARTICLES UPON A SATISFACTORY ASSURANCE FROM THE REQUESTING PARTY THAT THE ARTICLES WILL BE RETURNED TO THE REQUESTED PARTY AS SOON AS POSSIBLE.

ARTICLE 20 - TRANSIT - (1) THE RIGHT TO TRANSPORT THROUGH THE TERRITORY OF ONE OF THE CONTRACTING PARTIES A PERSON WHO IS NOT NATIONAL OF THAT
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CONTRACTING PARTY SURRENDERED TO THE OTHER CONTRACTING PARTY BY A THIRD STATE SHALL BE GRANTED ON PRESENTATION MADE THROUGH THE DIPLOMATIC CHANNEL OF A CERTIFIED COPY OF THE DECISION ON EXTRADITION, PROVIDED THAT REASONS OF PUBLIC ORDER ARE NOT OPPOSED TO THE TRANSIT.

(2) THE AUTHORITIES OF THE PARTY OF TRANSIT SHALL BE IN CHARGE OF THE CUSTODY OF THE EXTRADICTED PERSON WHILE THAT PERSON IS IN ITS TERRITORY.

(3) THE PARTY TO WHICH THE PERSON HAS BEEN EXTRADITED SHALL REIMBURSE THE PARTY THROUGH WHOSE TERRITORY SUCH PERSON IS TRANSPORTED FOR ANY EXPENSES INCURRED BY THE LATTER IN CONNECTION WITH SUCH TRANSPORTATION.

ARTICLE 21 - EXPENSES - THE REQUESTED PARTY SHALL MAKE ALL ARRANGEMENTS NECESSARY FOR INTERNAL PROCEDURES ARISING OUT OF THE REQUEST FOR EXTRADITION. THE REQUESTED PARTY SHALL BEAR THE EXPENSES OF SUCH ARRANGEMENTS, WITH THE EXCEPTION THAT THE EXPENSES INCURRED FOR THE TRANSLATION OF DOCUMENTS AND, IF APPLICABLE, FOR THE TRANSPORTATION OF THE PERSON ORDERED EXTRADITED SHALL BE PAID BY THE REQUESTING PARTY.

ARTICLE 22 - SCOPE OF APPLICATION - (1) THIS TREATY

SHALL APPLY TO OFFENSES SPECIFIED IN ARTICLE 2
COMMITTED BEFORE AND AFTER THIS TREATY ENTERS INTO
FORCE.

(2) REQUESTS FOR EXTRADITION THAT ARE UNDER PROCESS
ON THE DATE OF THE ENTRY INTO FORCE OF THIS TREATY,
SHALL BE RESOLVED IN ACCORDANCE WITH THE PROVISIONS
OF THE TREATY OF FEBRUARY 22, 1899, AND THE ADDITIONAL
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CONVENTIONS ON EXTRADITION OF 25 JUNE 1902, 23
DECEMBER 1925, AND 16 AUGUST 1939.

ARTICLE 23 - RATIFICATION, ENTRY INTO FORCE, DENUN-
CIATION - (1) THIS TREATY SHALL BE SUBJECT TO RATIFI-
CATION; THE EXCHANGE OF INSTRUMENTS OF RATIFICATION
SHALL TAKE PLACE IN WASHINGTON AS SOON AS POSSIBLE.

(2) THIS TREATY SHALL ENTER INTO FORCE ON THE DATE
OF EXCHANGE OF THE INSTRUMENTS OF RATIFICATION.

(3) ON ENTRY INTO FORCE OF THIS TREATY, THE TREATY
OF EXTRADITION OF 22 FEBRUARY 1899 AND THE ADDITIONAL
CONVENTIONS OF EXTRADITION OF 25 JUNE 1902, 23 DECEMBER
1925 AND 16 AUGUST 1939 BETWEEN THE UNITED STATES OF
AMERICA AND THE UNITED MEXICAN STATES, SHALL CEASE TO
HAVE EFFECT WITHOUT PREJUDICE TO THE PROVISION OF
ARTICLE 22.

(4) EITHER CONTRACTING PARTY MAY TERMINATE THIS
TREATY BY GIVING NOTICE TO THE OTHER PARTY THAT THE
TERMINATION SHALL TAKE EFFECT SIX MONTHS AFTER THE
RECEIPT OF SUCH NOTICE. END QUOTE.

3. SPANISH TEXT FOLLOWS REFTEL. LUCEY

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Secure: OPEN
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To: STATE
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